

Waltham City Council  
Executive Session  
March 22, 2021

City Council President Brasco called the Executive Session to order at 8:58 p.m.

City Councillors Present: Darcy, Dunn, Durkee, Harris, LaFauci, LeBlanc, Mackin, McLaughlin, McMenimen, O'Brien, Paz, Stanley, Vidal and Brasco.

City Councillors Absent: LaCava.

Others Present: Mayor Jeanette McCarthy, City Solicitor John Cervone, Asst. City Solicitor Katherine Laughman, Asst. City Clerk Joseph Vizard and City Clerk Robert Waddick.

The Mayor asked if anyone in the meeting had communications with Philip Chorman, Lorraine Reilly, Shawn Tully, and Amy Nelson. Councillor Dunn said she and communicated with the individuals regarding constituent issues. The Mayor Asked if anyone communicated with Ari Miller or Jeremy Lewis. Councillors LeBlanc, O'Brien and Brasco said that they had communication with Mr. Miller. Councillor Harris said she had received an email but had not responded. The Mayor asked if anyone communicated with Bob Coleman to which Councillors LeBlanc and Vidal responded in the affirmative. The Mayor asked if anyone had contact with the Attorneys in the case. Clerk Waddick said he had been contacted by Attorney Hill regarding the filing of a copy of the appeal with the City Clerk's Office.

The Mayor read a letter sent to the plaintiffs on March 18, 2021 and read the settlement agreement that was presented to the plaintiffs through their counsel. The Mayor said that there were communications between the City and the plaintiffs' counsel regarding the settlement agreement and the width of the roadway. The Mayor said that on March 22, 2021 the counsel for the plaintiffs sent non-substantive changes to the agreement. Other changes included the height of the trees to be planted, the plaintiff's right to file a claim against a third party vendor doing work on the site, and the City's refraining from taking property by eminent domain for 50 years. The Mayor said that the main issue is that there has not been an indication that the plaintiffs will sign an omnibus release which is a major issue.

Attorney Cervone said that today (March 22, 2021) was the first time the counsel for the plaintiffs raised the release as an issue.

The Mayor stated that she was requesting an appropriation of \$150,000.00 as contained in her communication dated March 22, 2021 (attached hereto as Exhibit 1). The Mayor provided the language for the action she was requesting from the Council (attached hereto as Exhibit 2).

Councillor LeBlanc asked if the improvements mentioned in the settlement agreement would be subject to betterments. The Mayor said they would not.

Councillor LaFauci asked about plaintiff's relationships to the City and if the emergency access road would be open during snow storms. The Mayor addressed the questions and also answered questions from Councillor LaFauci about water discharging from the site.

Councilor McLaughlin asked if the plaintiff's action is the extent of the litigation to which Attorney Cervone responded that it is at this time.

Councillor Paz asked how a settlement would impact access to state funding.

Councillor McMenimen asked about other potential litigation.

Attorney Cervone talked about the importance of the omnibus release.

The Mayor talked about deposition dates and a trial date.

Councillor McMenimen asked about the total value of the improvements and the damages payments. The Mayor stated that the total is \$1,785,516.

Councillor Durkee said he could not support the level of relief for the plaintiffs and would rather litigate the matter.

Councillor O'Brien asked Attorney Cervone to let the plaintiffs' counsel know that the plaintiffs should not be communicating directly with Councillors.

Councillor LeBlanc asked further questions about the release and moved to approve an appropriation request in the amount of \$150,000 subject to the following:

1. Settlement Agreement signed by the six Plaintiffs, Philip Chorman, Lorraine Reilly, Shawn Tully, Amy Nelson, Jeremy Lewis, Ari Miller and their attorney;
2. Omnibus Release signed by the above six Plaintiffs;
3. Stipulation of Dismissal of the Middlesex Superior Court Action Number 2081-CV-03028; and
4. Withdrawal of DEP appeal, File number 316-0770 by Ari Miller and Jeremy Lewis.

Subject to the above four documents being in a form agreed to by the City of Waltham's Law Department.

Roll Call:

In favor: Darcy, Dunn, Harris, LaFauci, LeBlanc, Mackin, McLaughlin, McMenimen, O'Brien, Paz and Vidal.

Opposed: Durkee and Stanley.

Absent: LaCava.

Presiding: Brasco.

Matter was approved 11-2.

Councillor Darcy moved to adjourn the Executive Session.

Roll Call:

In favor: Darcy, Dunn, Durkee, Harris, LaFauci, LeBlanc, Mackin, McLaughlin, McMenimen, O'Brien, Paz, Stanley and Vidal.

Opposed: None.

Absent: LaCava.

Presiding: Brasco.

Matter was approved 13-0.

President Brasco declared the Executive Session adjourned at 10:52 p.m.

Respectfully submitted,

Robert J. Waddick

City Clerk

March 25, 2021

Waltham City Council  
Roll CallItem: Motion requesting approval of an appropriation of  
\$150,000.00 with conditionsDate: 3-22-2021

Yea

Nay

Abstained

Absent

City Council

George A. Darcy III

✓

Caren Dunn

✓

Sean T. Durkee

✓

Cathyann Harris

✓

Joseph P. LaCava

✓

Anthony LaFauci

✓

Randy J. LeBlanc

✓

Kristine A. Mackin

✓

John J. McLaughlin

✓

Kathleen B. McMenimen

✓

Patrick J. O'Brien

✓

Jonathan Paz

✓

Thomas M. Stanley

✓

Carlos A. Vidal

✓

Paul J. Brasco  
PresidentPresiding

Totals (15)

11

2

1

Waltham City Council  
Roll Call

Item: Motion to Adjourn Executive Session

Date: 3-22-2021

Yea      Nay      Abstained      Absent

City Council

George A. Darcy III

✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

Caren Dunn

✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

Sean T. Durkee

✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

Cathyann Harris

✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

Joseph P. LaCava

\_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_      ✓

Anthony LaFauci

✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

Randy J. LeBlanc

✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

Kristine A. Mackin

✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

John J. McLaughlin

✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

Kathleen B. McMenimen

✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

Patrick J. O'Brien

✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

Jonathan Paz

✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

Thomas M. Stanley

✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

Carlos A. Vidal

✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

Paul J. Brasco  
President

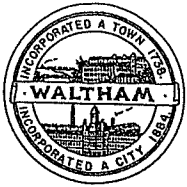
Presiding      \_\_\_\_\_      \_\_\_\_\_

Totals (15)

13

1

## EXHIBIT 1



# City of Waltham

*Jeannette A. McCarthy*  
*Mayor*

March 22, 2021

TO: The City Council

RE: Chorman et al vs. Waltham Zoning Board of Appeals et al

Dear Councillors:

I respectfully request an appropriation in the amount of \$150,000 for the following legal matter, Chorman et al vs Waltham Zoning Board of Appeals et al.

FROM:

Unreserved Fund Balance	#001-000-3590-3590	\$150,000
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TO:

Law – Chorman et al vs. ZBA et al.	#001-151-5400-5315-02	\$150,000
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The Mayor and/or City Solicitor will be available to answer questions concerning this request.

Sincerely,

Jeannette A. McCarthy

JAM/sm

Enclosure

cc: John Cervone, City Solicitor

## EXHIBIT 2

Motion to approve an appropriation request in the amount of \$150,000 subject to the following:

1. Settlement Agreement signed by the six Plaintiffs, Philip Chorman, Lorraine Reilly, Shawn Tully, Amy Nelson, Jeremy Lewis, Ari Miller and their attorney
2. Omnibus Release signed by the above six Plaintiffs
3. Stipulation of Dismissal of the Middlesex Superior Court action number C.A.2081-CV-03028
4. Withdrawal of DEP appeal, File number 316-0770 by Ari Miller and Jeremy Lewis.

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